

**PART 2A OF FORM ADV:  
FIRM BROCHURE**

**GREENLIGHT CAPITAL, INC.**

**140 East 45th Street, 24th Floor  
New York, New York 10017  
(212) 973-1900  
info@greenlightcapital.com  
www.greenlightcapital.com**

**March 31, 2017**

**This brochure provides information about the qualifications and business practices of Greenlight Capital, Inc. If you have any questions about the contents of this brochure, please contact us at (212) 973-1900 and/or info@greenlightcapital.com. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.**

**Additional information about Greenlight Capital, Inc. also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

**Being a "registered investment adviser" or describing ourselves as being "registered" does not imply a certain level of skill or training.**

**This brochure is not an offering or solicitation of interests in funds managed by Greenlight Capital, Inc. or its affiliates.**

## **Item 2. Material Changes**

This brochure includes no material changes since the brochure dated March 30, 2016.

## **Item 3. Table of Contents**

<b>ITEM 1.</b>	<b>COVER PAGE.....</b>	<b>1</b>
<b>ITEM 2.</b>	<b>MATERIAL CHANGES.....</b>	<b>2</b>
<b>ITEM 3.</b>	<b>TABLE OF CONTENTS .....</b>	<b>2</b>
<b>ITEM 4.</b>	<b>ADVISORY BUSINESS.....</b>	<b>3</b>
<b>ITEM 5.</b>	<b>FEES AND COMPENSATION.....</b>	<b>4</b>
<b>ITEM 6.</b>	<b>PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT .....</b>	<b>5</b>
<b>ITEM 7.</b>	<b>TYPES OF CLIENTS .....</b>	<b>6</b>
<b>ITEM 8.</b>	<b>METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS .....</b>	<b>6</b>
<b>ITEM 9.</b>	<b>DISCIPLINARY INFORMATION .....</b>	<b>19</b>
<b>ITEM 10.</b>	<b>OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS.....</b>	<b>19</b>
<b>ITEM 11.</b>	<b>CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING.....</b>	<b>22</b>
<b>ITEM 12.</b>	<b>BROKERAGE PRACTICES .....</b>	<b>23</b>
<b>ITEM 13.</b>	<b>REVIEW OF ACCOUNTS.....</b>	<b>27</b>
<b>ITEM 14.</b>	<b>CLIENT REFERRALS AND OTHER COMPENSATION .....</b>	<b>27</b>
<b>ITEM 15.</b>	<b>CUSTODY.....</b>	<b>27</b>
<b>ITEM 16.</b>	<b>INVESTMENT DISCRETION .....</b>	<b>27</b>
<b>ITEM 17.</b>	<b>VOTING CLIENT SECURITIES.....</b>	<b>27</b>
<b>ITEM 18.</b>	<b>FINANCIAL INFORMATION .....</b>	<b>28</b>
<b>ITEM 19.</b>	<b>REQUIREMENTS FOR STATE-REGISTERED ADVISERS.....</b>	<b>28</b>

#### **Item 4. Advisory Business**

Greenlight Capital, Inc. is a Delaware corporation that was founded in 1996. We are a value-oriented investment management firm that primarily invests and trades in long and short publicly listed equity securities, as well as distressed debt when cyclically attractive. David Einhorn is our President and portfolio manager.

We provide investment advisory services to: (i) Greenlight Capital, L.P., a Delaware limited partnership; (ii) Greenlight Capital Qualified, L.P., a Delaware limited partnership; (iii) Greenlight Capital Offshore Partners, a British Virgin Islands partnership; (iv) Greenlight Capital Offshore, Ltd., a British Virgin Islands business company, which is a feeder fund for Greenlight Capital Offshore Partners; and (v) Greenlight Capital Offshore Qualified, Ltd., a British Virgin Islands business company, which is also a feeder fund for Greenlight Capital Offshore Partners (collectively, the “*Capital Funds*”).

We make all investment decisions on behalf of the Capital Funds. Our primary responsibilities for the Capital Funds are to identify, review, and select investment opportunities that can achieve the Capital Funds’ investment objectives. We and our affiliates, Greenlight Capital, L.L.C. (the general partner of the domestic Capital Funds) and Greenlight Capital Offshore, LLC (a general partner of Greenlight Capital Offshore Partners), also provide certain administrative and management services to the Capital Funds.

The primary investment objective of the Capital Funds is to achieve capital appreciation by buying securities with trading values materially lower than their intrinsic values and by selling short securities with trading values materially higher than their intrinsic values. The Capital Funds aim to achieve high absolute rates of return while minimizing the risk of capital loss. There can be no assurance that this investment objective will be achieved and investment results may vary substantially.

The Capital Funds are authorized to invest, on margin or otherwise, in securities and other financial instruments of United States and foreign issuers, including, but not limited to: (i) capital stock; shares of beneficial interest; partnership interests and similar financial instruments; loans; bonds, notes, debentures (whether subordinated, convertible or otherwise), bank debt and other evidence of indebtedness; debt securities or other obligations of United States and foreign governments, or any states, agencies or instrumentalities thereof; commercial paper; other obligations and instruments or evidences of indebtedness of whatever kind or nature; in each case, of any person, government or other entity whatsoever, whether or not publicly traded or readily marketable; equipment lease certificates; equipment trust certificates; accounts and notes receivable and payable held by trade or other creditors; trade acceptances; contract and other claims; executory contracts; participations; open- and closed-end investment companies and other mutual funds; money market funds; exchange traded funds (“*ETFs*”); repurchase agreements; certificates of deposit; banker’s acceptances; trust receipts; currencies; and commodities; (ii) futures on the securities and instruments listed in (i) above, as well as futures relating to stock indices and other financial instruments; and (iii) derivatives, such as swaps, options, warrants, caps, collars, floors and forwards on the securities, instruments and futures listed in (i) and (ii) above, as well as interest rate, currency, commodity, equity and other derivatives, all without restriction of any kind.

We currently do not provide investment advisory services to clients apart from our management of the Capital Funds and do not participate in wrap fee programs, although our affiliates do provide advice to other persons and/or entities (including other privately-offered pooled alternative investment vehicles, some of which have an investment strategy substantially similar to the Capital Funds) and we and/or one or more affiliates may do so in the future.

As of January 1, 2017, the regulatory assets under management by Greenlight Capital, Inc. were approximately \$8,676,280,334.

For a further discussion of these and related items, see **Item 7** (Types of Clients), **Item 8** (Methods of Analysis, Investment Strategies and Risk of Loss) and **Item 10** (Other Financial Industry Activities and Affiliations).

## **Item 5. Fees and Compensation**

### **Management Fee and Performance Allocation**

We receive from the Capital Funds quarterly investment management fees (the “**Management Fee**”) at an annual rate equal to 1.5% of the value of each investor’s investment, valued and payable as of the beginning of each quarter (0.375% per quarter). The Management Fee for capital contributions made, or shares purchased, during a calendar quarter will be charged pro rata for the initial quarter of purchase. The Management Fee is also adjusted for withdrawals or redemptions within a calendar quarter.

In consideration for the Management Fee, we bear the administrative expenses of the Capital Funds and provide to the Capital Funds office space and utilities, quotation and computer equipment and services, administrative services and secretarial, clerical and other personnel. The Management Fee may exceed or may be less than the expenses borne by us on behalf of the Capital Funds.

Our affiliates, Greenlight Capital, L.L.C. and Greenlight Capital Offshore, LLC, are entitled to receive from the Capital Funds an annual performance-based profit allocation (the “**Performance Allocation**”) generally at the end of each year in an amount equal to 20% of the increase in the value of each investor’s investment, subject to a modified high water mark described below. The Performance Allocation generally will be allocated at the end of each fiscal year or immediately prior to a withdrawal occurring prior to the end of any fiscal year.

If a loss occurs that results in the value of an investor’s capital being less than the highest value of such capital through the close of any year since admission (or in the year of such investor’s admission, less than the initial amount of capital contributed by such investor to the relevant Capital Fund) (the “**High Water Mark**”), then the Performance Allocation shall be 10% of the increase in the value of such investor’s capital, if any, until such time as the value of such capital is equal to the High Water Mark plus an additional amount equal to 150% of the decrease in net asset value incurred by such investor (gross of the Performance Allocation but net of all fees). Thereafter, the Performance Allocation reverts to 20%. Withdrawals or redemptions by an investor will result in a proportional reduction of the High Water Mark. To be clear, no Performance Allocation is charged to an investor during any period in which such investor suffers a decrease in the net asset value of such investor’s capital.

The Management Fee and the Performance Allocation may be waived, reduced or rebated for any investor, including, without limitation, for investments we or our affiliates make and/or for investments made by our employees and their family members.

## **Expenses**

The Capital Funds bear all of the expenses incidental to their operations and business. These expenses include, but are not limited to: (i) brokerage commissions, charges and other transaction costs; (ii) fees and charges of clearing agencies; (iii) interest and commitment fees on loans and debit balances; (iv) income taxes, withholding taxes, transfer taxes and other governmental charges and duties; (v) fees of legal advisors, independent auditors and fund administrators; (vi) directors' fees and expenses, if any; (vii) the costs of any liability insurance or fidelity bonding obtained on behalf of or for the benefit of the Capital Funds; (viii) the costs of maintaining the Capital Funds' recognition, registered agents and registered offices in a variety of jurisdictions; (ix) the costs of any reports and notices to investors; (x) expenses relating to researching investments; (xi) offering expenses (including the costs of printing and distributing any offering documents); and (xii) fees for escrows, storage, custodians and other out of pocket expenses. A portion of these operating expenses may be shared with other investment entities or accounts we and our affiliates manage on an equitable basis.

Our principals, members, managers, directors, officers and employees (collectively, “*supervised persons*”) and we do not accept any compensation for the sale of securities or other investment products, including interests in the Capital Funds.

For a further discussion of these and related items, see **Item 12** (Brokerage Practices).

## **Item 6. Performance-Based Fees and Side-By-Side Management**

We manage only the Capital Funds, which are subject to the Performance Allocation. We may provide investment advisory services to additional clients in the future that may have similar or different performance-based fees and/or allocations than the performance-based fees and/or allocations of the Capital Funds (including other privately-offered pooled alternative investment vehicles, some of which may have an investment strategy substantially similar to the Capital Funds).

The Performance Allocation may create an incentive for us to make investments that are riskier or more speculative than would be the case in the absence of the Performance Allocation.

We are required to act in a manner that we consider fair, reasonable and equitable in allocating investment opportunities to the Capital Funds, but we and our affiliates are not otherwise subject to any specific obligations or requirements concerning the allocation of time, effort or investment opportunities, or any restrictions on the nature or timing of investments for the Capital Funds.

For a further discussion of these and related items, see **Item 5** (Fees and Compensation).

## **Item 7. Types of Clients**

We provide investment advisory services to the Capital Funds. We may in the future provide investment advisory services to additional clients including, but not limited to, other pooled investment vehicles, corporations, trusts, institutions, high net worth individuals, investment companies, pension plans, sovereign wealth funds, family offices, foundations and endowments.

For a further discussion of these and related items, see **Item 4** (Advisory Business) and **Item 10** (Other Financial Industry Activities and Affiliations).

## **Item 8. Methods of Analysis, Investment Strategies and Risk of Loss**

We are a value-oriented investment management firm that primarily invests and trades in long and short publicly listed equity securities, as well as distressed debt when cyclically attractive. On behalf of the Capital Funds, we seek to maximize investors' capital by buying securities with trading values materially lower than their intrinsic values and by selling short securities with trading values materially higher than their intrinsic values. We aim to achieve high absolute rates of return while minimizing the risk of capital loss.

We combine the analytical discipline of determining intrinsic value with a practical understanding of markets. We seek to invest in mispriced securities where we can ascertain the reason for the market's mispricing. Our approach is rooted in fundamental analysis and rigorous examination of financial statements.

All investments involve risk of loss including loss of principal. There can be no assurance that our investment objective will be achieved, and investment results may vary substantially.

### Investment Philosophy

We believe that capital markets are efficient over the long term. At the same time, however, we recognize that capital markets are inefficient over the short term in certain circumstances. The challenge we see for investors seeking to consistently outperform a market yardstick lies in 1) the recognition of temporary inefficiencies and/or the circumstances giving rise to such inefficiencies and 2) the ability to capitalize upon these value dislocations in a timely fashion.

We believe that a security's trading value is influenced by each of the following:

*Fundamentals:* This refers to a security's "intrinsic" value. We define intrinsic value as the present value of the cash flows that will be distributed to the owners of a security discounted at a rate that properly reflects the time value of money, the risk that expected cash flows will not be obtained, the volatility of the cash flows, and the security's liquidity. In the case of corporate securities, the cash flows derive either from the company's operations or from the sale of the company's operations and/or its assets.

*Technical:* This refers to a security's historical trading pattern and prices. An example of a strategy that relies largely upon technical analysis is "momentum" investing wherein investors purchase securities that have recently appreciated in price in the expectation of further price increases.

*Psychology:* This refers to the propensity of investors to make investment decisions based upon greed and fear. Investors who have made money in an investment are often inclined to hope for additional profits and increase their exposure, while investors who have lost money in an investment are often inclined to worry about further losses and reduce their exposure. In today's markets, group psychological swings foster excessive movements in security prices.

*Liquidity:* This refers to the amount of capital committed to investing in an asset class vis-à-vis the size of the asset class. Assuming that intrinsic value remains unchanged, supply and demand dictate that security prices will rise when additional investment capital enters an asset class and fall when investment capital leaves an asset class. For example, in today's equity market, when investors add liquidity by purchasing mutual funds, the managers of those funds face pressure to buy stocks regardless of the cheapness or dearness of equity prices.

We believe that trading values in the long term are determined by fundamental analysis. Notwithstanding this belief, technical, psychological and liquidity factors clearly influence trading values in the short term. Such temporary value dislocations create attractive opportunities for the alert, diligent and patient investor focused on intrinsic value.

Dislocations between intrinsic and trading values exist in two forms. In the first form, the influences of technicals, psychology and liquidity cause trading value to diverge from intrinsic value. The market temporarily focuses on something other than intrinsic value. We invest on the premise that the market will refocus on fundamentals and when it does trading value will converge with intrinsic value. In the second form, the market miscalculates intrinsic value due to a lack of either effort or ability. Here, we invest on the premise that the market will correct its assessment of intrinsic value and that the trading value will adjust accordingly.

We believe that an investment approach that emphasizes intrinsic value will achieve consistent absolute investment returns and safeguard capital regardless of market conditions.

### Investment Methodology

We believe that there are four essential steps in making an investment. We believe our investment professionals possess particular competence with respect to each of these steps—identification, analysis, strategy and execution.

1) *Opportunity Identification:* We benefit from a voluminous and diverse flow of ideas. We have developed substantial professional relationships with investment bankers, lawyers, independent researchers, brokers, sell-side analysts, other fund managers, and corporate managers. Such relationships afford the Capital Funds numerous opportunities that are consistent with our philosophy.

2) *Opportunity Analysis:* In view of the unquestionable breadth and diversity of investment opportunities available to the sophisticated investor, consistent outperformance in the

capital markets requires successive narrowings of the opportunity universe based both upon one's competencies and one's desired level of risk. We invest primarily in publicly listed equity securities and corporate debt. In assessing a potential investment in a company, we typically use thorough financial analysis to determine whether or not a disparity exists between the company's intrinsic value and its market value.

Long equity positions are often in areas where we believe there may be systematic inefficiencies, such as spinoffs and companies undergoing significant structural or organizational changes. Long positions may also include securities trading at a discount to intrinsic value. Short positions are generally in securities that we believe are overvalued and subject to fundamental deterioration.

We have substantial experience determining the intrinsic values of companies. Most of our professionals have worked in the corporate finance departments of leading investment banks or at other investment managers. They have been responsible for financial analyses and valuations of public and private companies. They have conducted qualitative evaluations of corporate management and strategy through on-site due diligence and deep fundamental research. Throughout our history, we have evaluated thousands of investment opportunities and selected only a small fraction for inclusion in the Capital Funds' portfolios.

While we do not limit the industries in which we invest, we concentrate our efforts on situations where intrinsic value is most readily determinable by financial or accounting analysis. We believe that the key determinants of intrinsic value are the level, growth and prospective use of discretionary cash flows and realizable asset values. In other words, we believe corporate securities represent ownership in or a claim on a business and should not be viewed merely as speculative instruments bought in the hope that another buyer will pay a higher price in the future.

In developing a financial analysis, we typically cull and evaluate information from company financial statements and meetings and conversations with management, competitors, industry analysts and other market participants. If this financial analysis confirms a valuation disparity hypothesis, we attempt to determine the risk/return characteristics of the potential investment. Such a determination at the outset is not merely a mathematical computation using probabilities and return scenarios intended to select all investments with positive weighted returns. Rather, it is an attempt to further hone the opportunity universe from which to build an investment portfolio by rejecting those potential investments with relatively high or more difficult to ascertain risks.

When we determine that intrinsic value is sufficiently disparate from current trading value, we attempt to identify the reason for the disparity to assess the likelihood the disparity will be eliminated. Possible reasons include the market's miscalculation of intrinsic value (often because the analysis is technically difficult), selling pressure from investors who are either unable (e.g., a distressed seller) or unmotivated (e.g., a tax driven seller) to hold the position, or overly strong market optimism or pessimism as a result of recent news events. We believe that, intrinsic value notwithstanding, unless apparent market anomalies are understood and their resolutions considered, disparities between trading and intrinsic values can persist for the intermediate term.



3) *Investment Strategy:* Any particular security of any particular company may be an attractive investment on its own merits, in relation to another security of the same company, or in relation to a security of another company. In each opportunity, we seek to optimize the risk/return ratio. Our professionals have experience not only in buying publicly listed equity securities and corporate debt, but also in selling securities short and investing in private placements, futures, currencies, commodities, credit default swaps, interest rate swaps, sovereign debt, derivatives and other instruments. Before committing capital, we generally conduct a thorough evaluation of available investment instruments in order to best exploit an opportunity.

In addition to considering the strategy for each individual investment position, we regularly reflect on strategy for the portfolio as a whole. Though short sales will, in effect, hedge the portfolio against market downturns, we generally only sell short securities that we believe will fall regardless of market conditions. The portfolio is built from the bottom up by evaluating each position on its own merit. We also consider and analyze the global macroeconomic environment and may make certain investments based upon these insights. With regard to portfolio strategy, we assess all of the following:

- *Concentration of Investments:* We anticipate that no single initial investment commitment will constitute more than 20% of the net asset value of a Capital Fund at cost. We anticipate that no single short equity position will constitute more than 10% of the net asset value of a Capital Fund at cost. Portfolio allocations reflect our relative confidence in the investments.
- *Liquidity:* We consider the liquidity of each investment and consequently of the portfolio as a whole. Where liquidity is limited, we usually invest only if we expect a higher rate of return to compensate for the additional risk imposed. To the extent we invest in illiquid securities, we may segregate such investments from the other assets of the Capital Funds through, for example, the use of one or more special purpose vehicles.
- *Monitoring:* We consistently re-evaluate each position in the portfolio to monitor changes in intrinsic value and trading value. This constant reassessment process characterizes our risk control approach.
- *Leverage:* We plan to employ no more leverage than routinely available through the use of brokerage firm margin accounts.

4) *Investment Execution:* Our professionals have significant experience in executing both equity and debt security trades as well as more complex over-the-counter and derivative transactions. We benefit from unusually strong relationships with a broad array of agents and principals who are instrumental in characterizing markets, locating buyers and sellers, borrowing stock for short sales, and effecting trades.

Our investment methodology can clearly be applied to a wide variety of investments. What remains constant is the discipline employed to create, monitor, and realize the profits on each investment of the Capital Funds.

The investment objectives and methods summarized above represent our current intentions. Depending on conditions and trends in the securities markets and the economy in general, we may pursue any objectives, employ any investment techniques or purchase any type

of security or financial instrument that we consider appropriate and in the best interests of the Capital Funds. The discussion above includes and is based upon numerous assumptions and opinions concerning global financial markets and other matters. These assumptions and opinions may not be accurate. **There can be no assurance that the Capital Funds' investment strategy will achieve profitable results.**

### General Risks

***Investment and Trading Risks Generally.*** The profitability of the Capital Funds' investment program depends to a great extent upon correctly assessing the future course of the price movements of securities and other investments. There can be no assurance that we will be able to predict accurately these price movements. With respect to the investment strategy utilized by the Capital Funds, there is always a significant degree of market risk, including the risk of a complete loss of capital.

The performance of any investment is subject to numerous factors which are not predictable by us or within our control. Such factors include a wide range of economic, political, competitive and other conditions (including acts of terrorism and war) that may affect investments in general or in specific industries or companies. In recent years, the securities markets have become increasingly volatile, which may adversely affect the ability of the Capital Funds to realize profits. As a result of the nature of the Capital Funds' investing activities, investors may incur substantial losses on their investments in the Capital Funds, and it is possible that the Capital Funds' financial performance may fluctuate substantially from period to period.

***Broad Discretionary Power to Choose Investments and Strategies.*** We have broad discretionary power to decide what investments the Capital Funds will make and what strategies they will use. We may choose any investments and strategies that we believe are advisable and consistent with the Capital Funds' investment objective.

Although we may seek to minimize risk through the application of various quantitative expected targets and parameters, there may be situations where we do not adhere to such expected targets and parameters. There can be no assurance that the Capital Funds' performance will not be materially and adversely affected by any failure to adhere to such expected targets and parameters.

***Potential Concentration of Investments.*** The Capital Funds will seek to maintain a diversified portfolio, and we anticipate that no single initial investment commitment will constitute more than 20% of the net asset value of a Capital Fund, and that no single short equity position will constitute more than 10% of the net asset value of a Capital Fund, in each case determined based on initial cost. Although we expect to spread the Capital Funds' capital among a number of investments, we may depart from such policy from time to time and may hold a few, relatively large positions in relation to the Capital Funds' capital. Since a Capital Fund's portfolio will not necessarily be widely diversified, the investment portfolio of a Capital Fund may be subject to more rapid changes in value than would be the case if the Capital Funds were required to maintain a wide diversification among companies, securities and types of securities.

***Control Positions.*** The Capital Funds may purchase controlling positions in publicly traded companies. Such controlling positions may be subject to increased restrictions on transfer, and the disposition of such control positions may be subject to increased transaction costs.

***Board and Committee Participation.*** We anticipate that the Capital Funds' investment program may from time to time enable the Capital Funds to place representatives on creditors committees and/or boards of certain companies in which the Capital Funds have invested. While such representation may enable the Capital Funds to enhance the sale value of their investments, it may also prevent the Capital Funds from freely disposing of their investments and may subject the Capital Funds to additional liability. The Capital Funds will indemnify us and any other person designated by us for claims arising from such board representation. The Capital Funds will attempt to balance the advantages and disadvantages of such representation when deciding whether and how to exercise their rights with respect to such companies, but the exercise of such rights could produce adverse consequences in particular situations.

***Material, Nonpublic Information.*** From time to time, we may come into possession of material, nonpublic information that would limit our ability to buy and sell investments on behalf of the Capital Funds. The Capital Funds' investment flexibility may be constrained as a consequence of our inability to take certain actions because of such information. The Capital Funds may experience losses if we are unable to sell an investment that they hold because we have obtained material, nonpublic information about such investment.

***Short Sales.*** The Capital Funds may enter into transactions, known as "short sales", in which they sell a security they do not own in anticipation of a decline in the market value of the security. Short sales by the Capital Funds theoretically involve unlimited loss potential (unless the short sale is made "against the box," meaning that the Capital Funds own the same security that is sold short, or the Capital Funds otherwise hedge their exposure) since the market price of securities sold short may continuously increase. The Capital Funds may mitigate such losses by replacing the securities sold short before the market price has increased significantly. Under adverse market conditions, the Capital Funds might have difficulty purchasing securities to meet short sale delivery obligations, and might have to sell portfolio securities to raise the capital necessary to meet short sale obligations at a time when fundamental investment considerations would not favor such sales.

Short sale transactions have been subject to increased regulatory scrutiny, including the imposition of restrictions on short selling certain securities and reporting requirements. The Capital Funds' ability to execute a short selling strategy may be materially adversely impacted by temporary and/or new permanent rules, interpretations, prohibitions and restrictions adopted in response to these adverse market events. Temporary restrictions and/or prohibitions on short selling activity may be imposed by regulatory authorities with little or no advance notice and may impact prior, current and future trading activities of the Capital Funds. Additionally, the Securities and Exchange Commission (the "***SEC***"), its non-U.S. counterparts, other governmental authorities and/or self-regulatory organizations may at any time promulgate permanent rules or interpretations consistent with such temporary restrictions or that impose additional or different permanent or temporary limitations or prohibitions. The SEC might impose different limitations and/or prohibitions on short selling from those imposed by various

non-U.S. regulatory authorities. These different regulations, rules or interpretations might have different effective periods.

In 2010, the SEC adopted a new short sale price test by amending Rule 201 of Regulation SHO (the “**Short Sale Rule**”). The Short Sale Rule goes into effect upon a 10% decline in the price of any National Market System security other than an option (i.e., stocks listed on the New York Stock Exchange, NYSE Euronext and NASDAQ) from its previous day’s closing price and effectively restricts the display or execution by exchanges and other trading centers of a short sale order in such stock to a price above the national best bid for the remainder of the trading day and the next trading day. Restrictions on the short selling of securities such as the foregoing could interfere with the ability of the Capital Funds to execute certain aspects of their investment strategies, including their ability to hedge certain exposures and execute transactions to implement their risk management measures, and any such limitations may adversely affect the performance of the Capital Funds.

Regulatory authorities may from time to time impose restrictions that adversely affect the Capital Funds’ ability to borrow certain securities in connection with short sale transactions. In addition, traditional lenders of securities might be less likely to lend securities under certain market conditions. As a result, the Capital Funds may not be able to effectively pursue a short selling strategy due to a limited supply of securities available for borrowing. The Capital Funds may also incur additional costs in connection with short sale transactions, including in the event that they are required to enter into a borrowing arrangement in advance of any short sales. Moreover, the ability to continue to borrow a security is not guaranteed and the Capital Funds are subject to strict delivery requirements. The inability of the Capital Funds to deliver securities within the required time frame may subject the Capital Funds to mandatory close out by the executing broker-dealer. A mandatory close out may subject the Capital Funds to unintended costs and losses. Certain action or inaction by third parties, such as executing broker-dealers or clearing broker-dealers, may materially impact the Capital Funds’ ability to effect short sale transactions.

**Derivative Investments.** The Capital Funds may use derivative instruments, or “derivatives,” which include futures, options, swaps, structured securities and other instruments and contracts that are derived from, or the value of which is related to, one or more underlying securities, financial benchmarks, currencies or indices. Derivatives allow an investor to hedge or speculate upon the price movements of a particular security, financial benchmark, currency or index at a fraction of the cost of investing in the underlying asset. The value of a derivative depends largely upon price movements in the underlying asset. Therefore, many of the risks applicable to trading the underlying asset are also applicable to derivatives of such asset. However, there are a number of other risks associated with derivatives trading. For example, because many derivatives are “leveraged,” and thus provide significantly more market exposure than the money paid or deposited when the transaction is entered into, a relatively small adverse market movement cannot only result in the loss of the entire investment, but may also expose the Capital Funds to the possibility of a loss exceeding the original amount invested. Derivatives may also expose investors to liquidity risk, as there may not be a liquid market within which to close or dispose of outstanding derivatives contracts, and to counterparty risk. The counterparty risk lies with each party with whom the Capital Funds contract for the purpose of making derivative investments (the “**Counterparty**”). In the event of the Counterparty’s default, the

Capital Funds will typically only rank as unsecured creditors and risk the loss of all or a portion of the amounts they are contractually entitled to receive.

**ETFs.** The Capital Funds may invest in and sell short shares of ETFs and other similar instruments. These transactions may be used to adjust the Capital Funds' exposure to the general market, industry sectors, commodities or interest rates, to manage the Capital Funds' risk exposure and to provide leverage. ETFs and other similar instruments involve risks generally associated with investments in a broadly based portfolio of common stocks or commodities, including the risk that the general level of stock prices or commodity prices, or that the prices of stocks within a particular sector, may increase or decrease, thereby affecting the value of the shares of the ETF or other instruments.

**Options.** The Capital Funds may invest in options. Investing in options can provide a greater potential for profit or loss than an equivalent investment in the underlying asset. The value of an option may decline because of a change in the value of the underlying asset relative to the strike price, the passage of time, changes in the market's perception as to the future price behavior of the underlying asset, or any combination thereof. In the case of the purchase of an option, the risk of loss of an investor's entire investment (i.e., the premium paid plus transaction charges) reflects the nature of an option as a wasting asset that may become worthless when the option expires. Where an option is written or granted (i.e., sold) uncovered, the seller may be liable to pay substantial additional margin, and the risk of loss is unlimited, as the seller will be obligated to deliver, or take delivery of, an asset at a predetermined price which may, upon exercise of the option, be significantly different from the market value.

**Swap Transactions.** The Capital Funds may enter into swap transactions with respect to equity and debt securities, interest rates, commodities, currencies, options, indices or baskets of the foregoing and other assets and liabilities, including credit default swaps. In a standard "swap" transaction, the counterparties agree to exchange payments based on the values (or the differential in values) of the particular underlying assets. Traditionally, such transactions were privately-negotiated bilateral contracts entered into between two counterparties under which each swap counterparty was subject to the risk of non-performance by the other swap counterparty, including risks relating to the creditworthiness of such swap counterparty. Depending on the type of swap transaction, the nature of the counterparty and the market in which a swap transaction is executed, swap transactions may present a variety of risks, including counterparty credit risk and illiquidity. In addition, the full effect of current and future swaps regulations remains unclear, and it is possible that these regulations may make swaps less desirable. As a result, the Capital Funds' investments in swaps may be reduced and the Capital Funds' returns may be negatively impacted. It is possible that further developments in the swap markets, including additional government regulation, could adversely affect the Capital Funds' ability to utilize swap transactions, to terminate existing swap transactions or to realize amounts to be received under such transactions.

**Regulation of Over-the-Counter Derivatives.** As a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the SEC and the U.S. Commodity Futures Trading Commission (the "**CFTC**") will require a substantial portion of derivative transactions that are currently executed on a bilateral basis in the over the counter ("**OTC**") markets to be executed through a regulated securities, futures or swap exchange or execution facility. For example,

certain interest rate swaps, including certain foreign exchange forwards defined as swaps by the CFTC, and credit default index swaps, are required by the CFTC to be submitted for clearing if traded by such persons. Certain CFTC-regulated derivatives trades are also expected to be subject to these rules. It is not yet clear when parallel SEC requirements will go into effect.

Among other things, in the U.S., swap trades submitted for clearing will be subject to minimum initial and variation margin requirements set by the relevant clearinghouse, as well as possible SEC or CFTC-mandated margin requirements. Regulators also have broad discretion to impose margin requirements on non-cleared OTC derivatives and new requirements will apply to derivatives dealers' holding of customer collateral. Derivatives dealers may require the Capital Funds to give them the right unilaterally to increase collateral requirements for cleared OTC trades beyond regulatory and clearinghouse minimums. These factors may increase the amount of collateral the Capital Funds are required to provide and the costs associated with providing it.

In an effort to facilitate derivatives strategies, the Capital Funds and/or we might become members of exchanges and/or swap execution facilities ("**SEF**"). Doing so would subject the Capital Funds and/or ourselves to a wide range of regulation and other obligations and associated costs. Like other self-regulatory organization, SEFs are expected to regularly revise and interpret their rules and those revisions and interpretations could adversely affect the Capital Funds. If the Capital Funds opt not to trade on a SEF directly but instead through a broker, such trading may nevertheless require the Capital Funds to consent to the SEF's jurisdiction as a self-regulatory organization and to be subject to the SEF's rules, which could adversely impact the Capital Funds.

In Europe, the E.U. Market Infrastructure Regulation on OTC derivatives, central counterparties and trade repositories ("**EMIR**") imposes requirements in respect of derivative contracts that may affect a Fund's derivatives activities in Europe, including a general obligation to clear certain types of OTC derivative contracts through a duly authorized central counterparty. EMIR will largely be implemented through secondary measures, some of which are already in effect, and some of which will come into effect over the coming years. The E.U. regulatory framework for derivatives is also affected by the Markets in Financial Instruments Directive ("**MiFID II**") which is expected to be implemented over the course of the coming years.

While these and other legislative and regulatory measures may provide protections for some market participants, they are new and still being implemented and their effects on the derivatives markets activities cannot be reliably predicted. They may reduce the availability of some types of derivative instruments, may increase the cost of trading in or maintaining them and may cause uncertainty in the markets for a variety of derivative instruments.

**Futures Contracts.** The Capital Funds may trade in futures contracts (and options on futures). Futures positions may be illiquid because, for example, most U.S. commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits." Under such daily limits, during a single trading day no trades may be executed at prices beyond the daily limits. Once the price of a contract for a particular future has increased or decreased by an amount equal to the daily limit, positions in the futures contract can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. Futures contract prices on various commodities and financial

instruments occasionally have moved the daily limit for several consecutive days with little or no trading. Similar occurrences could prevent the Capital Funds from promptly liquidating unfavorable positions and subject the Capital Funds to substantial losses. In addition, the Capital Funds may not be able to execute futures contract trades at favorable prices if trading volume in such contracts is low. It is also possible that an exchange or a regulator (such as the CFTC) may suspend trading in a particular contract, change margin requirements on a particular contract, order immediate liquidation and settlement of a particular contract or order that trading in a particular contract be conducted for liquidation only. In addition, the CFTC and various exchanges impose speculative position limits on the number of positions that may be held in particular underliers. Trading in futures contracts and options are highly specialized activities that may entail greater than ordinary investment or trading risks. Furthermore, low margin or premiums normally required in such trading may provide a large amount of leverage, and a relatively small change in the price of a security or contract can produce a disproportionately larger profit or loss.

***Forward Trading.*** Forward contracts and options thereon, unlike futures contracts, are not traded on exchanges and are not standardized; rather, banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward and “cash” trading is substantially unregulated; there is no limitation on daily price movements, and speculative position limits are not applicable. For example, there are no requirements with respect to record keeping, financial responsibility or segregation of customer funds or positions. In contrast to exchange-traded futures contracts, interbank traded instruments rely on the dealer or contracting counterparty to fulfill its contracts. As a result, trading in interbank contracts may be subject to more risks than futures or options trading on regulated exchanges, including, but not limited to, the risk of default due to the failure of a counterparty with which the Capital Funds have forward contracts. Although we seek to trade with appropriate and creditworthy counterparties, failure by a counterparty to fulfill its contractual obligation could expose the Capital Funds to unanticipated losses. The principals who deal in the forward markets are not required to continue to make markets in the currencies or commodities they trade, and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell. The imposition of controls by governmental authorities might also limit our ability to engage in forward trading to the possible detriment of the Capital Funds. Market illiquidity or disruption could also result in significant losses to the Capital Funds.

***Hedging.*** The Capital Funds may in our sole discretion utilize certain financial instruments and investment techniques for risk management or hedging purposes. There is no assurance that such risk management and hedging strategies will be successful, as such success will depend on, among other factors, our ability to predict the future correlation, if any, between the performance of the instruments utilized for hedging purposes and the performance of the investments being hedged. Since the characteristics of many securities change as markets change or time passes, the success of the Capital Funds’ hedging strategies may also be subject to our ability to correctly readjust and execute hedges in an efficient and timely manner. There is also a risk that such correlation will change over time, rendering the hedge ineffective. While the Capital Funds may enter into hedging transactions to seek to reduce risk, such transactions

may result in poorer overall performance for the Capital Funds than if they had not engaged in any such hedging transaction. The Capital Funds' portfolio will not be completely hedged and at times we may elect to have minimal, if any, hedging in place. Accordingly, the Capital Funds' assets may not be protected from market volatility and other conditions.

***Securities Lending.*** Some of the securities held by the Capital Funds may be pledged as collateral in the Capital Funds' margin accounts, which will subject the Capital Funds to the risks associated with such pledging arrangements. The Capital Funds may also engage in additional programs of securities lending. To the extent the Capital Funds engage in securities lending, there may be risks of delay and costs involved in the recovery of securities or even losses should the borrower of the securities have financial difficulty or otherwise fail to meet its obligations under the securities lending arrangement.

While the Capital Funds expect to receive collateral in connection with the lending of securities, there is the risk that the price of the securities could increase while they are on loan and that the collateral will be inadequate to cover their value. In general, it is expected that the Capital Funds' securities lending agent will seek to consider all relevant facts and circumstances, including the creditworthiness of the broker, dealer or other borrower, in making decisions with respect to the lending of securities, although this cannot be assured.

***Leverage.*** Subject to applicable margin and other limitations, the Capital Funds may borrow funds in order to make additional investments and thereby increase both the possibility of gain and risk of loss. Consequently, the effect of fluctuations in the market value of the Capital Funds' portfolio would be amplified. Interest on borrowings will be a portfolio expense of the Capital Funds and will affect the operating results of the Capital Funds. Also, the Capital Funds could potentially create leverage via the use of instruments such as options and other derivative instruments.

***Distressed Securities.*** The Capital Funds may invest in securities and other obligations of companies that are experiencing significant financial or business distress, including companies involved in bankruptcy or other reorganizations and liquidation proceedings. Although such investments may produce significant returns to the Capital Funds, they involve a high degree of risk over a potentially lengthy period of time, as well as less liquidity than many other investments. Investment in these types of securities requires sophisticated analysis, and there can be no assurance that we will accurately predict various factors that could affect the prospects of a successful restructuring. Many of these investments ordinarily remain stagnant until the company reorganizes and/or emerges from bankruptcy proceedings, and, as a result, may have to be held for an extended period of time.

***Private Equity Investments.*** Private equity investments involve a high degree of business and financial risk and can result in substantial or complete losses. Some portfolio companies in which the Capital Funds invest may be operating at a loss or with substantial variations in operating results from period to period and may need substantial additional capital to support expansion or to achieve or maintain competitive positions. Such companies may face intense competition, including competition from companies with much greater financial resources, much more extensive development, production, marketing and service capabilities and a much larger number of qualified managerial and technical personnel. The Capital Funds can



not offer any assurance that the marketing efforts of any particular portfolio company will be successful or that its business will succeed.

Private businesses can take several years from the date of initial investment to the time when disposition of outstanding securities can be considered, and frequently require even longer periods before disposition can occur. It is unlikely that any significant distributions of profits generated from the operations of these non-public companies or disposition or liquidation of the Capital Funds' investments in them will be made until well after the initial investments are made, if at all.

***Commodities.*** The Capital Funds may invest in commodities and derivatives on such commodities. The prices of commodities and commodities contracts are highly volatile. Price movements of commodities are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. The value of certain futures, options and swap agreements also depends upon the price of the commodities underlying them.

***Investments in Foreign Securities.*** Investments in foreign securities involve certain factors not typically associated with investing in U.S. securities, such as risks relating to (i) differences between the U.S. and foreign securities markets, including the absence of uniform accounting, auditing and financial reporting standards and practices and disclosure requirements, and less government supervision and regulation; (ii) political, social or economic instability; (iii) the extension of credit, especially in the case of sovereign debt; and (iv) certain tax-related risks including, without limitation, uncertainties in the application of tax laws by non-U.S. jurisdictions, the imposition of withholding and other taxes on dividends, interest, capital gains or other income, the possibility of expropriation, confiscatory taxation and limitations on the removal of funds or other assets of the Capital Funds.

Furthermore, changes or modifications in existing judicial decisions or in the current positions of the U.S. Internal Revenue Service (the "IRS"), either taken administratively or as contained in published revenue rulings and revenue procedures (which changes or modification may apply with retroactive effect), or the passage of new legislation, could lead to unfavorable treatment of certain non-U.S. investments, which could adversely impact the Capital Funds' portfolios.

***Exchange Rate Risks; Currency Risk.*** It is expected that the Capital Funds' portfolios will be comprised of U.S. Dollar denominated investments and investments denominated in other currencies. However, all monies returned to investors, the valuation of the Capital Funds' securities and other capital and the reported net asset value will be denominated in U.S. Dollars. Changes in the value of other currencies against the value of the U.S. Dollar could have an adverse impact on the performance of the Capital Funds. The Capital Funds may enter into currency hedging transactions, but they are not required or expected to do so, and such transactions have an associated cost that could reduce investment returns. Spot and forward currency prices are highly volatile and price movements for spot and forward currency contracts may be influenced by, among other things, the foregoing risks. In addition, governments from time to time intervene directly and by regulation in certain markets. Such intervention is often

intended to influence prices directly. Furthermore, spot and forward contracts are negotiated on an individual basis by banks and dealers that act as principals in these markets. Accordingly, the Capital Funds will be subject to the risk of the inability or refusal to perform on the part of the principals or agents through whom such forward contracts are traded.

***Credit Risk.*** Although the Capital Funds intend to enter into transactions only with counterparties that we believe to be creditworthy, there can be no assurance that a counterparty will not default and that the Capital Funds will not sustain a loss on a transaction as a result. If an obligor (such as the issuer or a party offering credit enhancement) for a security held by the Capital Funds, a counterparty to a financial contract with the Capital Funds, a prime broker or other service provider to the Capital Funds, or the grantor of a participation interest in an investment (such as bank debt) to the Capital Funds, fails to pay, otherwise defaults or is perceived to be less creditworthy, a security's credit rating is downgraded or the credit quality or value of any underlying assets declines, the value of such investment could decline. In addition, the Capital Funds may incur expenses to protect the Capital Funds' interests in securities experiencing these events.

***Lack of Valuation Data; Limited Liquidity of Investments.*** The Capital Funds' assets may, at any given time, consist of significant amounts of securities and other financial instruments or obligations which are thinly traded, for which no market exists and/or which are restricted as to their transferability under United States federal or state securities laws or the laws of other countries. To the extent that the Capital Funds invest in securities or instruments for which market quotations are not readily available, we will determine the valuation of such securities and instruments, and our determination will be final and conclusive as to all parties.

In addition, for all securities traded on public exchanges, each exchange typically has the right to suspend or limit trading in all securities that it lists. Such a suspension could render it impossible to liquidate positions and thereby expose the Capital Funds to losses.

***Accuracy of Public Information.*** We select investments for the Capital Funds, in part, on the basis of information and data filed by issuers with various government regulators or made directly available to us by the issuers or through sources other than the issuers. Although we evaluate all such information and data and ordinarily seek independent corroboration when we consider it is appropriate and reasonably available, we are not in a position to confirm the completeness, genuineness or accuracy of such information and data, and in some cases, complete and accurate information is not available.

***Broker and Custodian Risk.*** The Capital Funds' assets may be held in one or more accounts maintained for the Capital Funds by their prime brokers or at other brokers or custodian banks, which may be located in various jurisdictions. The prime brokers, other brokers (including those acting as sub-custodians) and custodian banks are subject to various laws and regulations in the relevant jurisdictions that are designed to protect their customers in the event of their insolvency. Accordingly, the practical effect of the laws protecting customers in the event of insolvency and their application to the Capital Funds' assets may be subject to substantial variations, limitations and uncertainties. For instance, in certain jurisdictions brokers could have title to the Capital Funds' assets or may not segregate customer assets. Because of the large number of entities and jurisdictions involved and the range of possible factual scenarios

involving the insolvency of a prime broker, another broker or a clearing corporation, it is impossible to adequately describe the effect of the insolvency of any of them on the Capital Funds and their assets. Investors should assume that the insolvency of any of the prime brokers, local brokers, custodian banks or clearing corporations may result in the loss of all or a substantial portion of the Capital Funds' assets or in a significant delay in the Capital Funds having access to those assets.

For a further discussion of these and related items, see **Item 10** (Other Financial Industry Activities and Affiliations), **Item 11** (Code of Ethics, Participation or Interest in Client Transactions and Personal Trading) and **Item 12** (Brokerage Practices).

#### **Item 9. Disciplinary Information**

On January 25, 2012, the United Kingdom's Financial Conduct Authority ("**FCA**", formerly known as the Financial Services Authority) fined Greenlight Capital, Inc. and Mr. Einhorn for inadvertently engaging in market abuse in connection with Greenlight Capital, Inc.'s trading of Punch Taverns Plc shares in June 2009. Although the FCA found that Mr. Einhorn did not act deliberately or recklessly, and the market abuse was inadvertent, the FCA imposed a financial penalty on Greenlight Capital, Inc. of £3 million and disgorgement of £650,795. The FCA imposed a financial penalty on Mr. Einhorn of £3 million and disgorgement of £638,000.

There are no other legal or disciplinary events that are material to a client's or prospective client's evaluation of our advisory business or the integrity of our management.

#### **Item 10. Other Financial Industry Activities and Affiliations**

Mr. Einhorn is a director of Greenlight Capital Offshore, Ltd. and Greenlight Capital Offshore Qualified, Ltd.

We are affiliated with a group of entities (identified below) that provide investment advisory and other services to third parties.

- DME Capital Management, LP and DME Management GP, LLC, which provide discretionary investment advisory and other services to pooled investment vehicles that have an investment strategy that is substantially the same as the Capital Funds, but are also essentially backed by exposure to gold (the "**Dollar-Gold Funds**");
- DME Advisors, L.P. and DME Advisors, LLC, which provide discretionary investment advisory and other services to certain subsidiaries of Greenlight Capital Re, Ltd., a Cayman Islands publicly-traded reinsurance company that has an investment strategy that is substantially the same as the Capital Funds ("**Greenlight Re**"). Mr. Einhorn is Chairman of the Board of Directors of Greenlight Re and a significant investor; and
- Greenlight Masters, LLC and Greenlight Masters GP, L.L.C., which provide discretionary investment advisory and other services to privately-offered funds of funds (the "**Masters Funds**"), which have investments in certain Capital Funds.

DME Capital Management, LP, DME Advisors, L.P. and Greenlight Masters, LLC are separately registered with the SEC as investment advisers.

We are also affiliated with Greenlight Capital (UK) LLP, a limited liability partnership incorporated under the laws of England and Wales that is authorized and regulated by the United Kingdom Financial Conduct Authority. Greenlight Capital (UK) LLP provides certain non-discretionary trading and research services to us and our affiliates.

No management persons are registered, or have an application pending to register, as a broker-dealer or a registered representative of a broker-dealer.

No management persons are registered, or have an application pending to register, as a futures commission merchant, commodity pool operator, commodity trading advisor, or an associated person of the foregoing entities.

From time to time, we may select one or more other investment advisers for our clients. We do not generally receive compensation, directly or indirectly, from those other investment advisers.

### **Potential Conflicts of Interest**

As discussed in Item 11 below, subject to the provisions of our code of ethics, including pre-clearance requirements for purchases and sales of securities, we and our affiliates may engage in investment trading activities for our own accounts.

We and our affiliates are not obligated to devote any specific amount of time to the affairs of the Capital Funds. Our affiliates manage and expect to continue to manage other client accounts, some of which have objectives similar to those of the Capital Funds, including other collective investment vehicles that may be managed by us or our affiliates and in which we or any of our affiliates may have an equity interest. In managing other clients, we and our affiliates may take positions that are different from, or inconsistent with, the positions taken by the Capital Funds. Investors in a Capital Fund will not be entitled to inspect any of our or our affiliates', or any Capital Fund's, trading records.

The Dollar-Gold Funds and accounts managed on behalf of Greenlight Re have investment strategies that are similar to the Capital Funds' investment strategies. In addition, we and our affiliates may launch other funds or provide services to other accounts that compete with the Capital Funds or have a similar investment strategy, or which may invest in parallel with the Capital Funds. We refer to such funds and accounts, collectively with the Capital Funds, the Dollar-Gold Funds and the accounts managed on behalf of Greenlight Re, as the "***Greenlight Entities***".

The Greenlight Entities generally make investments alongside the Capital Funds on a pro rata basis in accordance with the Greenlight Entities' assets under management at the time of the investment, unless (1) in the judgment of us and our affiliates, tax, regulatory, legal or other considerations make such investments inappropriate or impractical or require an alternate investment structure, or (2) we or our affiliates determine to allocate trades on a non-pro rata basis in order to rebalance the Greenlight Entities' portfolios. As it may prove impossible to

make the Greenlight Entities parallel at all times, there may be material performance disparities among the Greenlight Entities, and among the Capital Funds themselves.

We and our affiliates have adopted a rebalancing policy and a trade allocation policy. The rebalancing policy permits us and our affiliates to transfer investments among some or all of the Greenlight Entities and the Capital Funds under certain circumstances. We and our affiliates may rebalance, at our discretion, the portfolios of the Greenlight Entities and the Capital Funds on a monthly basis to the extent the Greenlight Entities or the Capital Funds have accepted new material contributions, experienced net withdrawals or experienced other capital changes. We and our affiliates will engage in rebalancing transactions through private transactions among the Greenlight Entities and the Capital Funds at current market prices, if available. The goal of the rebalancing transactions is for each Greenlight Entity and Capital Fund, subject to legal, regulatory, tax, accounting and practical considerations, to maintain the same pro rata ownership of each securities position (based on the available capital of each Greenlight Entity and Capital Fund) after giving effect to the rebalancing transaction to the extent that such pro rata ownership is consistent with the investment objective and strategy of each Greenlight Entity.

We and our affiliates, however, generally will not rebalance any security or position if (a) such security or position is not freely publicly tradable, unless we get the advance consent of the Chief Compliance Officer, (b) we or our affiliates or one or more Greenlight Entities are an affiliate of the issuer of such security, (c) any Greenlight Entity owns more than (i) 10% of the equity securities of such issuer for passive positions, or (ii) the then current limit proscribed by the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (“*HSR Act*”) for non-passive positions in investment securities of such issuer, (d) any Greenlight Entity might be subject to disgorgement of “short-swing” profits pursuant to Section 16 of the Securities and Exchange Act of 1934 or similar foreign regulations, with respect to such security, or (e) such rebalancing would constitute a principal transaction under Section 206(3) of the Investment Advisers Act of 1940 (the “*Advisers Act*”). In addition, we may elect not to rebalance any security or position for any other reason in our commercially reasonable discretion.

In the event we rebalance a security that is not freely publicly tradable, our Chief Financial Officer shall maintain a record of how the valuation of the security was determined and the rationale for the rebalancing transaction.

Our authority to use “soft dollar” credits generated by the Capital Funds’ securities transactions to pay for expenses that might otherwise have been borne by us may give us an incentive to select brokers or dealers for transactions of the Capital Funds, or to negotiate commission rates or other execution terms, in a manner that takes into account the soft dollar benefits received by us rather than giving exclusive consideration to the interests of the Capital Funds.

Please see **Item 8** (Methods of Analysis, Investment Strategies and Risk of Loss), **Item 11** (Code of Ethics, Participation or Interest in Client Transactions and Personal Trading) and **Item 12** (Brokerage Practices).

## **Item 11. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

### **Code of Ethics and Personal Trading**

We have adopted a code of ethics pursuant to Advisers Act Rule 204A-1. Our code of ethics requires full compliance with all applicable laws and regulations governing the provision of investment management services to our clients. In addition, our code of ethics highlights the fiduciary duty that we owe to our clients, including the affirmative duty to act in the best interests of our clients and to make full and fair disclosure of material facts. We expect each supervised person to act with integrity, competence, dignity, and in an ethical manner when dealing with the public, the Capital Funds, investors and prospective investors in the Capital Funds, service providers and fellow supervised persons. We also expect supervised persons to adhere to the highest standards with respect to any potential conflict of interest with clients.

Our code of ethics contains guidelines relating to personal trading by supervised persons (and certain of their immediate family members). Our supervised persons are not permitted to purchase or sell any security without the advance written approval of the Chief Compliance Officer. Supervised persons are permitted to make limited personal investments without the prior approval of the Chief Compliance Officer, such as investments in (a) obligations of the United States, (b) obligations of investment grade United States municipalities, (c) money market funds, money market accounts, certificates of deposit, demand deposits, time deposits and checking and savings accounts, (d) life insurance policies which do not provide the ability to select investments in which to invest premiums, and (e) personal residence(s) (excluding real estate investments made for the primary purpose of investment or rental).

Our code of ethics also requires supervised persons to provide us with certain securities holdings and periodic transaction reports, as required by Advisers Act Rule 204A-1.

Our code of ethics has specific provisions relating to identifying potential conflicts of interest. The provisions prohibit a supervised person from directing client transactions for the purpose of obtaining a personal benefit. They also generally prohibit personal business dealings with clients or investors without the prior approval of our Chief Compliance Officer. We have also adopted provisions relating to accepting offers of business gifts or business entertainment from third parties.

All violations of the code of ethics must be promptly reported to our Chief Compliance Officer, who is primarily responsible for administering our code of ethics. A violation of the code of ethics may result in the imposition of remedial action, including, censure, fine, restriction on activities, suspension or termination of employment.

Clients may obtain, free of charge, a full copy of our code of ethics by contacting us at the following address:

Greenlight Capital, Inc.  
140 East 45th Street, 24th Floor  
New York, New York 10017  
Attention: Chief Compliance Officer

Telephone: 212-973-1900  
Facsimile: 212-973-9219  
Email: info@greenlightcapital.com

## **Participation in Client Transactions**

We and our related persons do not recommend to the Capital Funds, or buy or sell for the Capital Funds, securities in which we or our related persons have a material financial interest. Although our principals, employees and officers may buy and sell securities for their own account or the account of others, they may not buy securities from or sell securities to the Capital Funds.

For a further discussion of these and related items, see **Item 8** (Methods of Analysis, Investment Strategies and Risk of Loss), **Item 10** (Other Financial Industry Activities and Affiliations) and **Item 12** (Brokerage Practices).

### **Item 12. Brokerage Practices**

#### **General**

The Capital Funds have appointed several prime brokers. The prime brokers maintain on deposit the Capital Funds' cash, securities, and other investments in brokerage accounts. In addition, the Capital Funds maintain custodial accounts to hold cash, securities, commodities and other investments.

Purchases and sales of securities through brokers involve a commission to the broker. Purchases and sales of securities from dealers serving as market makers include the spread between the bid and the asked price.

In placing securities transactions with brokers, we seek to obtain best execution, which requires us to take into account the circumstances of each specific transaction. In selecting a broker for each specific transaction, we will use our best judgment to choose the broker most capable of providing "best execution". Brokers are selected on the basis of our evaluation of the overall value and quality of the services provided by the broker. No one factor controls our decision. In seeking the best price and execution quality, we consider not only the commission rate, spread or other compensation paid, but also the price at which the transaction is executed, bearing in mind that it may be in our clients' best interest to pay a higher commission, spread or other compensation in order to receive better execution.

Examples of some of the specific factors we generally consider when deciding which brokers to utilize when entering into security transactions include, but are not limited to:

- the ability to effect prompt and reliable executions at favorable prices (including the applicable dealer spread or commission, if any);
- the operational efficiency with which transactions are effected, taking into account the size of the order and difficulty of execution;

- the financial strength, integrity and stability of the broker;
- the broker's risk in positioning a block of securities;
- the quality, comprehensiveness and frequency of available research or other services considered to be of value;
- the competitiveness of commission rates in comparison with other brokers satisfying our other selection criteria;
- the ability of the broker to appropriately handle our transactions and the ability to maintain confidentiality;
- a broker's willingness to enter into difficult transactions, including transactions in which the broker's capital is put at risk;
- the broker's expertise in effecting difficult trades in less liquid, smaller capitalized, and more closely held issues;
- the speed of execution on competing markets;
- access to underwritten offerings and secondary market trades;
- the broker's demonstrated ability to achieve the best net results on transactions in a particular sector or of a particular size; and
- the broker's ability to complete the transaction satisfactorily through to clearance, confirmation and delivery.

Our application and the importance of the specific criteria will vary depending upon the nature of the transaction, the asset class, the market in which it is effected, and the extent to which it is possible to select from among multiple brokers or dealers capable of effecting the transaction. When we use direct market access, we assess whether the execution venues included in our order execution policy provide for best execution. Where appropriate, we must also consider any regulatory requirements in the jurisdiction in which a transaction is to be conducted.

Subject to the foregoing, we are not prohibited from selecting a broker that has other business relationships with us, our affiliates, or the Greenlight Entities, such as, but not limited to, prime brokerage arrangements, access to research services, referrals to prospective investors, underwriting commitments, investments in the broker, or access to lending facilities, provided that the broker also provides best execution.

We evaluate the execution arrangements of broker-dealers and other intermediaries through which we place trades. Further, we monitor our compliance with our internal policies on trading and the use of soft dollars on at least a semi-annual basis. Our periodic reviews consider, among other things:



- the execution quality of broker-dealers or other intermediaries;
- the reasonableness of brokerage commissions and mark-ups and mark-downs in light of the brokerage and research services received;
- the relative benefit to clients of research paid for by soft dollars and the allocation of the cost of any “mixed use” research products; and
- the nature of research products paid for by soft dollars and their qualification for protection under Section 28(e) of the Securities Exchange Act of 1934.

In reviewing the selection or use of brokers, we consider any potential conflicts of interest, such as the occurrence of referrals or other business dealings between the broker-dealer and us or our principals.

### **Soft Dollars**

The Capital Funds are authorized to pay higher commissions to brokers than the minimum rates obtainable in the marketplace, or to pay higher prices for the purchase of securities from or accept lower prices for the sale of securities. The Capital Funds will make these payments to brokerage firms that provide us with investment and research information (even though the research services may not be for the exclusive benefit of the Capital Funds) if we determine such commissions or prices are reasonable in relation to the overall services provided.

Research services furnished by brokers may include written information and analyses concerning specific securities, companies or sectors; market, financial and economic studies and forecasts; statistics and pricing or appraisal services; discussions with research personnel; and invitations to attend conferences or meetings with management or industry consultants or other information or services. We are not required to weigh these factors equally. Information so received is in addition to and not in lieu of services required to be performed by us, and our fee is not reduced as a consequence of the receipt of any supplemental research information. Research services provided by broker-dealers used by the Capital Funds may be utilized by us and our affiliates in connection with providing investment services for clients other than the Capital Funds. Also, research services provided by broker-dealers used for other clients may be utilized by us in performing services for the Capital Funds.

We have the option to use soft dollars generated by the Capital Funds to pay for the research related services described above or to have these paid directly by the Capital Funds. The products and services available from brokers include both internally generated items (such as research reports prepared by employees of the broker) as well as items acquired by the broker from third parties (such as quotation equipment). Section 28(e) of the Securities Exchange Act of 1934 provides a “safe harbor” to investment managers who use soft dollars generated by their advised accounts to obtain investment research and brokerage services that provide lawful and appropriate assistance to such managers in the performance of investment decision-making responsibilities. The agreements we have with the Capital Funds permit us to use soft dollars for expenses that do not fall within the safe harbor of Section 28(e) of the Securities Exchange Act

of 1934. However, we will not use soft dollar credits generated by the Capital Funds to pay for any goods or services outside of this safe harbor.

Section 28(e) of the Securities Exchange Act of 1934 allows us to use soft dollar credits generated by the securities transactions conducted on behalf of the Capital Funds and the Greenlight Entities to pay for expenses that we might otherwise have to pay ourselves. As a result, we will not have to pay these expenses directly. This may give us an incentive to select brokers or dealers for transactions of the Capital Funds, or to negotiate commission rates or other execution terms, in a manner that takes into account the soft dollar benefits received by us rather than giving exclusive consideration to the interests of the Capital Funds. However, we only use soft dollars to pay for expenses that would otherwise be borne by the Capital Funds and the Greenlight Entities.

Any use of soft dollars requires approval of the Chief Compliance Officer. We generally seek to allocate soft dollar benefits pro rata among the Capital Funds and the Greenlight Entities.

Although we are authorized to allocate transactions to brokers who assist in the distribution of the Capital Funds' interests, it is our policy not to do so. However, we are not prohibited from using the services of a broker-dealer that has made a referral of potential investors or with which we or our principals have other business dealings provided that the dealings are disclosed to the Chief Compliance Officer and the broker-dealer provides best execution. Subject to the foregoing, we may have an incentive to select or recommend a broker based on investor referrals, rather than just best execution.

We do not recommend, request or require that a client direct us to execute transactions through a specified broker-dealer, and we do not permit clients to direct brokerage.

### **Aggregation of Transactions**

We generally aggregate trades of our clients when consistent with the clients' investment objectives and restrictions. If an aggregated order is not completely filled, shares purchased or sold will generally be allocated pro rata based on assets under management by clients participating in the aggregated transaction.

Our trade allocation policy seeks to allocate trades in a manner that treats the Capital Funds and the Greenlight Entities fairly. From time to time, we may allocate trades and securities on a non-pro rata basis in order to rebalance the Capital Funds' and the Greenlight Entities' portfolios and for other legal, regulatory, tax, accounting, business and practical reasons.

For a further discussion of these and related items, see **Item 8** (Methods of Analysis, Investment Strategies and Risk of Loss), **Item 10** (Other Financial Industry Activities and Affiliations) and **Item 11** (Code of Ethics, Participation or Interest in Client Transactions and Personal Trading).

### **Item 13. Review of Accounts**

Generally, the Capital Funds are reviewed on a regular basis by our investment professionals, the Chief Financial Officer, Chief Operating Officer, and the Chief Compliance Officer. These reviews are designed to monitor and analyze transactions, positions and investment levels.

Investors in the Capital Funds are furnished with annual reports containing financial statements examined by the Capital Funds' independent auditors within 120 days after the end of each taxable year. Investors are also furnished with monthly reports describing the Capital Funds' performance for such month, a quarterly investor letter and monthly attribution information.

### **Item 14. Client Referrals and Other Compensation**

For a discussion of these and related items, see **Item 10** (Other Financial Industry Activities and Affiliations) and **Item 12** (Brokerage Practices).

### **Item 15. Custody**

We and our affiliates have custody of the assets of the Capital Funds. We do not use a qualified custodian to send quarterly account statements directly to the investors in the Capital Funds. The Capital Funds will distribute their annual audited financial statements to their investors within 120 days of their fiscal year-end.

We urge investors to carefully review the audited financial statements of the Capital Funds in which they are invested.

### **Item 16. Investment Discretion**

We and our affiliates have discretionary authority with respect to the investment decisions on behalf of the Capital Funds pursuant to the investment advisory agreements with the Capital Funds, or otherwise through the formation documents of the Capital Funds, as applicable. Investment decisions for the Capital Funds are made in accordance with the Capital Funds' investment objectives and guidelines.

For a further discussion of these and related items, see **Item 4** (Advisory Business) and **Item 10** (Other Financial Industry Activities and Affiliations).

### **Item 17. Voting Client Securities**

We have been delegated the authority and right to vote proxies received by the Capital Funds. We and our affiliates have adopted a proxy voting policy to ensure that we vote proxies to further the best interests of each client. We determine how to vote after studying the proxy materials and any other materials that may be necessary or beneficial to voting. We vote in a manner that we believe reasonably furthers the best interests of the Capital Funds and is consistent with our investment philosophy.

The major proxy-related issues generally fall within five categories: corporate governance, takeover defenses, compensation plans, capital structure and social responsibility. We will cast votes for these matters on a case-by-case basis. We will generally vote in favor of matters which follow an agreeable corporate strategic direction, support an ownership structure that enhances shareholder value without diluting management's accountability to shareholders and/or present compensation plans that are commensurate with enhanced manager performance and market practices.

If a proxy vote creates a material conflict between our interests and the interests of the Capital Funds, we will resolve the conflict before voting the proxies. We will either disclose the conflict to the Capital Funds or take other steps designed to ensure that a decision to vote the proxy was based on our determination of the Capital Funds' best interest and was not the product of the conflict.

The Capital Funds cannot generally direct how we vote in a particular situation.

Clients may obtain, free of charge, a full copy of our proxy voting policies and procedures and/or a record of proxy votes by contacting us at the following address:

Greenlight Capital, Inc.  
140 East 45th Street, 24th Floor  
New York, New York 10017  
Attention: Chief Compliance Officer  
Telephone: 212-973-1900  
Facsimile: 212-973-9219  
Email: [info@greenlightcapital.com](mailto:info@greenlightcapital.com)

#### **Item 18. Financial Information**

We do not require or solicit prepayment of fees six months or more in advance.

We are not aware of any financial condition that is reasonably likely to impair our ability to meet contractual commitments to clients.

We have not been the subject of a bankruptcy petition at any time during the past ten years.

#### **Item 19. Requirements for State-Registered Advisers**

We are not registered with any State as an investment adviser.